

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**ERICSSON INC., and
TELEFONAKTIEBOLAGET LM ERICSSON**
**Plaintiffs, Counterclaim
Defendants,**

v.

**SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.
and SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC,**

**Defendants, Counterclaim
Plaintiffs.**

**CIVIL ACTION NO. 6:12-cv-894-
LED**

JURY TRIAL DEMANDED

**PLAINTIFF ERICSSON'S ANSWER AND AFFIRMATIVE DEFENSES TO
DEFENDANT SAMSUNG'S RESPONSE TO ERICSSON'S ANSWER, AFFIRMATIVE
DEFENSES AND COUNTERCLAIMS TO SAMSUNG'S THIRD AMENDED ANSWER,
AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**

Plaintiffs Ericsson Inc. and Telefonaktiebolaget LM Ericsson (collectively, "Ericsson"), by and through their attorneys, hereby answer Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc. and Samsung Telecommunications America, LLC's (collectively, "Defendants" or "Samsung") purported counterclaims contained in Defendant Samsung's Response to Ericsson's Answer, Affirmative Defenses, and Counterclaims to Samsung's Third Amended Answer, Affirmative Defenses and Counterclaims filed on December 16, 2013 (Dkt. No. 72) (Samsung's "Response & Counterclaims").

GENERAL DENIAL

Ericsson denies the allegations in Samsung's Response & Counterclaims unless expressly admitted in the following paragraphs.

SAMSUNG'S ANSWER & PURPORTED AFFIRMATIVE DEFENSES

Samsung's answer and purported affirmative defenses included in Samsung's Response & Counterclaims (*see* Dkt. No. 72 at 1-34) are referred to herein as Samsung's "Answer." No response should be required to Samsung's Answer. However, to the extent any response is required, Ericsson denies the allegations in Samsung's Answer unless expressly admitted.

SAMSUNG'S PURPORTED COUNTERCLAIMS

Ericsson admits that Samsung purports to state counterclaims against Ericsson, but denies that any such counterclaims are meritorious and denies that Samsung is entitled to any relief. Samsung's purported counterclaims included in Samsung's Response & Counterclaims (*see* Dkt. No. 72 at 35) are referred to herein as Samsung's "Counterclaims." To the extent Samsung repeats or incorporates by reference allegations, responses or other information from Samsung's pleadings or other filings, Ericsson repeats and incorporates by reference Ericsson's prior responses thereto.¹

219. Ericsson repeats and incorporates by reference Ericsson's responses to Samsung's allegations as set forth in Ericsson's Answer, Affirmative Defenses and Counterclaims to Samsung's Third Amended Answer, Affirmative Defenses and Counterclaims to Ericsson's First Amended Complaint for Patent Infringement (Dkt. No. 67) (Ericsson's "Answer & Counterclaims"), including paragraphs 1-248 thereof, and denies any remaining allegations.

220. Ericsson repeats and incorporates by reference Ericsson's responses to Samsung's allegations as set forth in Plaintiff Ericsson's Answer & Affirmative Defenses to Defendant

¹ Samsung states that it repeats and realleges certain allegations of its November 5, 2013 Third Amended Answer & Counterclaims (Dkt. No. 64) and its May 16, 2013 Response to Ericsson's Answer, Affirmative Defenses, and Counterclaims (Dkt. No. 36). Dkt. No. 72 at 35, ¶¶219-220. Although Ericsson previously responded to Samsung's allegations (*see, e.g.*, Dkt. Nos. 67 & 44), Ericsson further responds and incorporates its prior responses herein in an abundance of caution.

Samsung's Response to Ericsson's Answer, Affirmative Defenses & Counterclaims to Samsung's First Amended Answer, Affirmative Defenses & Counterclaims (Dkt. No. 44), including paragraphs 1-58 thereof, and denies any remaining allegations.

ALLEGED EXCEPTIONAL CASE

Ericsson denies the allegations of paragraph 220 of Samsung's Response & Counterclaims.

RESPONSE TO DEFENDANT/COUNTERCLAIM PLAINTIFF SAMSUNG'S PRAYER FOR RELIEF

Ericsson denies that Samsung is entitled to any relief whatsoever from Ericsson as prayed for in Samsung's Response & Counterclaims or any other pleading in this case, denies that Samsung is entitled to an injunction, and denies that Samsung is entitled any other relief.

ERICSSON'S AFFIRMATIVE DEFENSES

Ericsson incorporates by reference its previously-asserted affirmative defenses, including the affirmative defenses stated in Ericsson's Answer & Counterclaims (*see* Dkt. No. 67 at 44-50, ¶¶249-278) as though separately alleged herein against each of Samsung's purported Counterclaims. Ericsson's inclusion of these defenses is not a concession that Ericsson bears the burden of proof with respect to any of these defenses. Ericsson reserves the right to supplement, modify, and/or amend its defenses and to take further positions as discovery proceeds.

ERICSSON'S COUNTERCLAIMS

Ericsson maintains its allegations and counterclaims, including as set forth in Ericsson's Answer & Counterclaims. *See* Dkt. No. 67 at 50-94, ¶¶1-193.

DEMAND FOR JURY TRIAL

Ericsson hereby demands a trial by jury on all issues triable by a jury alleged or relating to this litigation. *See, e.g.*, Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Ericsson respectfully requests that this Court enter judgment in its favor and grant the relief requested in Ericsson's Answer & Counterclaims as well as an Order dismissing Samsung's Response & Counterclaims in its entirety with prejudice.

Dated: January 9, 2014

Respectfully submitted,

MCKOOL SMITH, P.C.

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**ATTORNEYS FOR PLAINTIFFS
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a)(3)(A) on January 9, 2014.

/s/ Theodore Stevenson, III
Theodore Stevenson, III